

SECOND REGULAR SESSION

HOUSE BILL NO. 1426

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DAVIS.

Read 1st time January 10, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3639L.011

AN ACT

To repeal sections 104.010, 104.271, 104.1003, and 104.1024, RSMo, and to enact in lieu thereof four new sections relating to public retirement systems.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 104.010, 104.271, 104.1003, and 104.1024, RSMo, are repealed and
2 four new sections enacted in lieu thereof, to be known as sections 104.010, 104.271, 104.1003,
3 and 104.1024, to read as follows:

104.010. 1. The following words and phrases as used in sections 104.010 to 104.800,
2 unless a different meaning is plainly required by the context, shall mean:

3 (1) "Accumulated contributions", the sum of all deductions for retirement benefit
4 purposes from a member's compensation which shall be credited to the member's individual
5 account and interest allowed thereon;

6 (2) "Active armed warfare", any declared war, or the Korean or Vietnamese Conflict;

7 (3) "Actuarial equivalent", a benefit which, when computed upon the basis of actuarial
8 tables and interest, is equal in value to a certain amount or other benefit;

9 (4) "Actuarial tables", the actuarial tables approved and in use by a board at any given
10 time;

11 (5) "Actuary", the actuary who is a member of the American Academy of Actuaries or
12 who is an enrolled actuary under the Employee Retirement Income Security Act of 1974 and who
13 is employed by a board at any given time;

14 (6) "Annuity", annual payments, made in equal monthly installments, to a retired
15 member from funds provided for in, or authorized by, this chapter;

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

- 16 (7) "Average compensation", the average compensation of a member for the thirty-six
17 consecutive months of service prior to retirement when the member's compensation was greatest;
18 or if the member is on workers' compensation leave of absence or a medical leave of absence due
19 to an employee illness, the amount of compensation the member would have received may be
20 used, as reported and verified by the employing department; or if the member had less than
21 thirty-six months of service, the average annual compensation paid to the member during the
22 period up to thirty-six months for which the member received creditable service when the
23 member's compensation was the greatest; or if the member is on military leave, the amount of
24 compensation the member would have received may be used as reported and verified by the
25 employing department or, if such amount is not determinable, the amount of the employee's
26 average rate of compensation during the twelve-month period immediately preceding such period
27 of leave, or if shorter, the period of employment immediately preceding such period of leave;
- 28 (8) "Beneficiary", any person entitled to or nominated by a member or retiree who may
29 be legally entitled to receive benefits pursuant to this chapter;
- 30 (9) "Biennial assembly", the completion of no less than two years of creditable service
31 or creditable prior service by a member of the general assembly;
- 32 (10) "Board of trustees", "board", or "trustees", a board of trustees as established for the
33 applicable system pursuant to this chapter;
- 34 (11) "Chapter", sections 104.010 to 104.800;
- 35 (12) "Compensation":
- 36 (a) All salary and wages payable out of any state, federal, trust, or other funds to an
37 employee for personal services performed for a department; but including only amounts for
38 which contributions have been made in accordance with section 104.436, or section 104.070,
39 whichever is applicable, and excluding any nonrecurring single sum payments or amounts paid
40 after the member's termination of employment unless such amounts paid after such termination
41 are a final installment of salary or wages at the same rate as in effect immediately prior to
42 termination of employment in accordance with a state payroll system adopted on or after January
43 1, 2000, or any other one-time payments made as a result of such payroll system;
- 44 (b) All salary and wages which would have been payable out of any state, federal, trust
45 or other funds to an employee on workers' compensation leave of absence during the period the
46 employee is receiving a weekly workers' compensation benefit, as reported and verified by the
47 employing department;
- 48 (c) Effective December 31, 1995, compensation in excess of the limitations set forth in
49 Internal Revenue Code Section 401(a)(17) shall be disregarded. The limitation on compensation
50 for eligible employees shall not be less than the amount which was allowed to be taken into
51 account under the system as in effect on July 1, 1993. For this purpose, an "eligible employee"

52 is an individual who was a member of the system before the first plan year beginning after
53 December 31, 1995;

54 (13) "Consumer price index", the Consumer Price Index for All Urban Consumers for
55 the United States, or its successor index, as approved by a board, as such index is defined and
56 officially reported by the United States Department of Labor, or its successor agency;

57 (14) "Creditable prior service", the service of an employee which was either rendered
58 prior to the establishment of a system, or prior to the date the employee last became a member
59 of a system, and which is recognized in determining the member's eligibility and for the amount
60 of the member's benefits under a system;

61 (15) "Creditable service", the sum of membership service and creditable prior service,
62 to the extent such service is standing to a member's credit as provided in this chapter; except that
63 in no case shall more than one day of creditable service or creditable prior service be credited any
64 member for any one calendar day of eligible service credit as provided by law;

65 (16) "Deferred normal annuity", the annuity payable to any former employee who
66 terminated employment as an employee or otherwise withdrew from service with a vested right
67 to a normal annuity, payable at a future date;

68 (17) "Department", any department or agency of the executive, legislative or judicial
69 branch of the state of Missouri receiving state appropriations, including allocated funds from the
70 federal government but not including any body corporate or politic unless its employees are
71 eligible for retirement coverage from a system pursuant to this chapter as otherwise provided by
72 law;

73 (18) "Disability benefits", benefits paid to any employee while totally disabled as
74 provided in this chapter;

75 (19) "Early retirement age", a member's attainment of fifty-five years of age and the
76 completion of ten or more years of creditable service, except for uniformed members of the water
77 patrol;

78 (20) "Employee":

79 (a) Any elective or appointive officer or person employed by the state who is employed,
80 promoted or transferred by a department into a new or existing position and earns a salary or
81 wage in a position normally requiring the performance by the person of duties during not less
82 than one thousand hours per year, including each member of the general assembly but not
83 including any patient or inmate of any state, charitable, penal or correctional institution.
84 Beginning September 1, 2001, the term "year" as used in this subdivision shall mean the
85 twelve-month period beginning on the first day of employment. However, persons who are
86 members of the public school retirement system and who are employed by a state agency other
87 than an institution of higher learning shall be deemed employees for purposes of participating

88 in all insurance programs administered by a board established pursuant to section 104.450. This
89 definition shall not exclude any employee as defined in this subdivision who is covered only
90 under the federal Old Age and Survivors' Insurance Act, as amended. As used in this chapter,
91 the term "employee" shall include:

92 a. Persons who are currently receiving annuities or other retirement benefits from some
93 other retirement or benefit fund, so long as they are not simultaneously accumulating creditable
94 service in another retirement or benefit system which will be used to determine eligibility for or
95 the amount of a future retirement benefit;

96 b. Persons who have elected to become or who have been made members of a system
97 pursuant to section 104.342;

98 (b) Any person who has performed services in the employ of the general assembly or
99 either house thereof, or any employee of any member of the general assembly while acting in the
100 person's official capacity as a member, and whose position does not normally require the person
101 to perform duties during at least one thousand hours per year, with a month of service being any
102 monthly pay period in which the employee was paid for full-time employment for that monthly
103 period;

104 (c) "Employee" does not include special consultants employed pursuant to section
105 104.610;

106 (d) As used in this chapter, the hours governing the definition of employee shall be
107 applied only from August 13, 1988, forward;

108 (e) The system shall consider a person who is employed in multiple positions
109 simultaneously within a single agency to be working in a single position for purposes of
110 determining whether the person is an employee as defined in this subdivision;

111 (21) "Employer", a department of the state;

112 (22) "Executive director", the executive director employed by a board established
113 pursuant to the provisions of this chapter;

114 (23) "Fiscal year", the period beginning July first in any year and ending June thirtieth
115 the following year;

116 (24) "Full biennial assembly", the period of time beginning on the first day the general
117 assembly convenes for a first regular session until the last day of the following year;

118 (25) "Fund", the benefit fund of a system established pursuant to this chapter;

119 (26) "Interest", interest at such rate as shall be determined and prescribed from time to
120 time by a board;

121 (27) "Member", as used in sections 104.010 to 104.272 or 104.600 to 104.800 shall mean
122 a member of the highways and transportation employees' and highway patrol retirement system
123 without regard to whether or not the member has been retired. "Member", as used in this section

124 and sections 104.312 to 104.800, shall mean a member of the Missouri state employees'
125 retirement system without regard to whether or not the member has been retired;

126 (28) "Membership service", the service after becoming a member that is recognized in
127 determining a member's eligibility for and the amount of a member's benefits under a system;

128 (29) "Military service", all active service performed in the United States Army, Air
129 Force, Navy, Marine Corps, Coast Guard, and members of the United States Public Health
130 Service or any women's auxiliary thereof; and service in the Army national guard and Air
131 national guard when engaged in active duty for training, inactive duty training or full-time
132 national guard duty, and service by any other category of persons designated by the President in
133 time of war or emergency;

134 (30) "Normal annuity", the annuity provided to a member upon retirement at or after the
135 member's normal retirement age;

136 (31) "Normal retirement age", an employee's attainment of sixty-five years of age and
137 the completion of four years of creditable service or the attainment of age sixty-five years of age
138 and the completion of five years of creditable service by a member who has terminated
139 employment and is entitled to a deferred normal annuity or the member's attainment of age sixty
140 and the completion of fifteen years of creditable service, except that normal retirement age for
141 uniformed members of the highway patrol shall be fifty-five years of age and the completion of
142 four years of creditable service and uniformed employees of the water patrol shall be fifty-five
143 years of age and the completion of four years of creditable service or the attainment of age
144 fifty-five and the completion of five years of creditable service by a member of the water patrol
145 who has terminated employment and is entitled to a deferred normal annuity and members of the
146 general assembly shall be fifty-five years of age and the completion of three full biennial
147 assemblies. Notwithstanding any other provision of law to the contrary, a member of the
148 highways and transportation employees' and highway patrol retirement system or a member of
149 the Missouri state employees' retirement system shall be entitled to retire with a normal annuity
150 and shall be entitled to elect any of the survivor benefit options and shall also be entitled to any
151 other provisions of this chapter that relate to retirement with a normal annuity if the sum of the
152 member's age and creditable service equals eighty years or more [and if the member is at least
153 fifty years of age];

154 (32) "Payroll deduction", deductions made from an employee's compensation;

155 (33) "Prior service credit", the service of an employee rendered prior to the date the
156 employee became a member which service is recognized in determining the member's eligibility
157 for benefits from a system but not in determining the amount of the member's benefit;

158 (34) "Reduced annuity", an actuarial equivalent of a normal annuity;

159 (35) "Retiree", a member who is not an employee and who is receiving an annuity from

160 a system pursuant to this chapter;

161 (36) "System" or "retirement system", the highways and transportation employees' and
162 highway patrol retirement system, as created by sections 104.010 to 104.270, or sections 104.600
163 to 104.800, or the Missouri state employees' retirement system as created by sections 104.320
164 to 104.800;

165 (37) "Uniformed members of the highway patrol", the superintendent, lieutenant colonel,
166 majors, captains, director of radio, lieutenants, sergeants, corporals, and patrolmen of the
167 Missouri state highway patrol who normally appear in uniform;

168 (38) "Uniformed members of the water patrol", employees of the Missouri state water
169 patrol of the department of public safety who are classified as water patrol officers who have
170 taken the oath of office prescribed by the provisions of chapter 306, RSMo, and who have those
171 peace officer powers given by the provisions of chapter 306, RSMo;

172 (39) "Vesting service", the sum of a member's prior service credit and creditable service
173 which is recognized in determining the member's eligibility for benefits under the system.

174 2. Benefits paid pursuant to the provisions of this chapter shall not exceed the limitations
175 of Internal Revenue Code Section 415, the provisions of which are hereby incorporated by
176 reference.

104.271. Notwithstanding any other provision of law to the contrary, a member of the
2 Missouri transportation department and highway patrol retirement system or a member of the
3 Missouri state employees' retirement system shall be entitled to retire with a normal annuity and
4 shall be entitled to elect any of the survivor benefit options and shall also be entitled to any other
5 provisions of this chapter that relate to retirement with a normal annuity if the sum of the
6 member's age and creditable service equals eighty years or more [and if the member is at least
7 fifty years of age].

104.1003. Unless a different meaning is plainly required by the context, the following
2 words and phrases as used in sections 104.1003 to 104.1093 shall mean:

3 (1) "Act", the "Year 2000 Plan" created by sections 104.1003 to 104.1093;

4 (2) "Actuary", an actuary who is experienced in retirement plan financing and who is
5 either a member of the American Academy of Actuaries or an enrolled actuary under the
6 Employee Retirement Income Security Act of 1974;

7 (3) "Annuity", annual benefit amounts, paid in equal monthly installments, from funds
8 provided for in, or authorized by, sections 104.1003 to 104.1093;

9 (4) "Annuity starting date" means the first day of the first month with respect to which
10 an amount is paid as an annuity pursuant to sections 104.1003 to 104.1093;

11 (5) "Beneficiary", any person or entity entitled to receive an annuity or other benefit
12 pursuant to sections 104.1003 to 104.1093 based upon the employment record of another person;

- 13 (6) "Board of trustees", "board", or "trustees", a governing body or bodies established
14 for the year 2000 plan pursuant to sections 104.1003 to 104.1093;
- 15 (7) "Closed plan", a benefit plan created pursuant to this chapter and administered by a
16 system prior to July 1, 2000. No person first employed on or after July 1, 2000, shall become
17 a member of the closed plan, but the closed plan shall continue to function for the benefit of
18 persons covered by and remaining in the closed plan and their beneficiaries;
- 19 (8) "Consumer price index", the Consumer Price Index for All Urban Consumers for the
20 United States, or its successor index, as approved by the board, as such index is defined and
21 officially reported by the United States Department of Labor, or its successor agency;
- 22 (9) "Credited service", the total credited service to a member's credit as provided in
23 sections 104.1003 to 104.1093;
- 24 (10) "Department", any department or agency of the executive, legislative, or judicial
25 branch of the state of Missouri receiving state appropriations, including allocated funds from the
26 federal government but not including any body corporate or politic unless its employees are
27 eligible for retirement coverage from a system pursuant to this chapter as otherwise provided by
28 law;
- 29 (11) "Early retirement eligibility", a member's attainment of fifty-seven years of age and
30 the completion of at least five years of credited service;
- 31 (12) "Effective date", July 1, 2000;
- 32 (13) "Employee" shall be any person who is employed by a department and is paid a
33 salary or wage by a department in a position normally requiring the performance of duties of not
34 less than one thousand hours per year, provided:
- 35 (a) The term "employee" shall not include any patient or inmate of any state, charitable,
36 penal or correctional institution, or any person who is employed by a department in a position
37 that is covered by a state-sponsored defined benefit retirement plan not created by this chapter;
- 38 (b) The term "employee" shall be modified as provided by other provisions of sections
39 104.1003 to 104.1093;
- 40 (c) The system shall consider a person who is employed in multiple positions
41 simultaneously within a single agency to be working in a single position for purposes of
42 determining whether the person is an employee as defined in this subdivision;
- 43 (d) Beginning September 1, 2001, the term "year" as used in this subdivision shall mean
44 the twelve-month period beginning on the first day of employment;
- 45 (14) "Employer", a department;
- 46 (15) "Executive director", the executive director employed by a board established
47 pursuant to the provisions of sections 104.1003 to 104.1093;
- 48 (16) "Final average pay", the average pay of a member for the thirty-six full consecutive

49 months of service before termination of employment when the member's pay was greatest; or if
50 the member was on workers' compensation leave of absence or a medical leave of absence due
51 to an employee illness, the amount of pay the member would have received but for such leave
52 of absence as reported and verified by the employing department; or if the member was
53 employed for less than thirty-six months, the average monthly pay of a member during the period
54 for which the member was employed;

55 (17) "Fund", a fund of the year 2000 plan established pursuant to sections 104.1003 to
56 104.1093;

57 (18) "Investment return", "interest", rates as shall be determined and prescribed from
58 time to time by a board;

59 (19) "Member", a person who is included in the membership of the system, as set forth
60 in section 104.1009;

61 (20) "Normal retirement eligibility", a member's attainment of at least sixty-two years
62 of age and the completion of at least five or more years of credited service or, [the attainment of
63 at least fifty years of age with] a total of years of age and years of credited service which is at
64 least eighty or, in the case of a member of the highway patrol who shall be subject to the
65 mandatory retirement provisions of section 104.080, the mandatory retirement age and
66 completion of five years of credited service or, [the attainment of at least fifty years of age with]
67 a total of years of age and years of credited service which is at least eighty;

68 (21) "Pay" shall include:

69 (a) All salary and wages payable to an employee for personal services performed for a
70 department; but excluding:

71 a. Any amounts paid after an employee's employment is terminated, unless the payment
72 is made as a final installment of salary or wages at the same rate as in effect immediately prior
73 to termination of employment in accordance with a state payroll system adopted on or after
74 January 1, 2000;

75 b. Any amounts paid upon termination of employment for unused annual leave or unused
76 sick leave;

77 c. Pay in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue
78 Code of 1986 as amended and other applicable federal laws or regulations; and

79 d. Any nonrecurring single sum payments;

80 (b) All salary and wages which would have been payable to an employee on workers'
81 compensation leave of absence during the period the employee is receiving a weekly workers'
82 compensation benefit, as reported and verified by the employing department;

83 (c) All salary and wages which would have been payable to an employee on a medical
84 leave due to employee illness, as reported and verified by the employing department;

85 (d) For purposes of members of the general assembly, pay shall be the annual salary
86 provided to each senator and representative pursuant to section 21.140, RSMo, plus any salary
87 adjustment pursuant to section 21.140, RSMo;

88 (22) "Retiree", a person receiving an annuity from the year 2000 plan based upon the
89 person's employment record;

90 (23) "State", the state of Missouri;

91 (24) "System" or "retirement system", the Missouri state employees' retirement system
92 or the transportation department and highway patrol retirement system, as the case may be;

93 (25) "Vested former member", a person entitled to receive a deferred annuity pursuant
94 to section 104.1036;

95 (26) "Year 2000 plan", the benefit plan created by sections 104.1003 to 104.1093.

104.1024. 1. Any member who terminates employment may retire on or after attaining
2 normal retirement eligibility by making application in written form and manner approved by the
3 appropriate board. The written application shall set forth the annuity starting date which shall
4 not be earlier than the first day of the second month following the month of the execution and
5 filing of the member's application for retirement nor later than the first day of the fourth month
6 following the month of the execution and filing of the member's application for retirement.

7 2. A member's annuity shall be paid in the form of a life annuity, except as provided in
8 section 104.1027, and shall be an amount for life equal to one and seven-tenths percent of the
9 final average pay of the member multiplied by the member's years of credited service.

10 3. The life annuity defined in subsection 2 of this section shall not be less than a monthly
11 amount equal to fifteen dollars multiplied by the member's full years of credited service.

12 4. If as of the annuity starting date of a member who has attained normal retirement
13 eligibility the sum of the member's years of age and years of credited service equals eighty or
14 more years and if the member's age is [at least fifty years but] less than sixty-two years, or, in the
15 case of a member of the highway patrol who shall be subject to the mandatory retirement
16 provision of section 104.080, the mandatory retirement age and completion of five years of
17 credited service, then in addition to the life annuity described in subsection 2 of this section, the
18 member shall receive a temporary annuity equal to eight-tenths of one percent of the member's
19 final average pay multiplied by the member's years of credited service. The temporary annuity
20 and any cost-of-living adjustments attributable to the temporary annuity pursuant to section
21 104.1045 shall terminate at the end of the calendar month in which the earlier of the following
22 events occurs: the member's death or the member's attainment of the earliest age of eligibility for
23 reduced Social Security retirement benefits.

24 5. The annuity described in subsection 2 of this section for any person who has credited
25 service not covered by the federal Social Security Act, as provided in sections 105.300 to

26 105.445, RSMo, shall be calculated as follows: the life annuity shall be an amount equal to two
27 and five-tenths percent of the final average pay of the member multiplied by the number of years
28 of service not covered by the federal Social Security Act in addition to one and seven-tenths
29 percent of the final average pay of the member multiplied by the member's years of credited
30 service covered by the federal Social Security Act.

31 6. Effective January 1, 2002, any member, except an elected official or a member of the
32 general assembly, who has not been paid retirement benefits and continues employment for at
33 least two years beyond the date of normal retirement eligibility, may elect to receive an annuity
34 and lump sum payment or payments, determined as follows:

35 (1) A retroactive starting date shall be established which shall be the later of the first day
36 of retirement eligibility or five years before the annuity starting date;

37 (2) The prospective annuity payable as of the annuity starting date shall be determined
38 pursuant to the provisions of this section, with the exception that it shall be the amount which
39 would have been payable at the annuity starting date had the member actually retired on the
40 retroactive starting date under the retirement plan selected by the member. Other than for the
41 lump sum payment or payments specified in subdivision (3) of this subsection, no other amount
42 shall be due for the period between the retroactive starting date and the annuity starting date;

43 (3) The lump sum payable shall be ninety percent of the annuity amounts which would
44 have been paid to the member from the retroactive starting date to the annuity starting date had
45 the member actually retired on the retroactive starting date and received a life annuity. The
46 member shall elect to receive the lump sum amount either in its entirety at the same time as the
47 initial annuity payment is made or in three equal annual installments with the first payment made
48 at the same time as the initial annuity payment; and

49 (4) Any annuity payable pursuant to this section that is subject to a division of benefit
50 order pursuant to section 104.1051 shall be calculated as follows:

51 (a) Any service of a member between the retroactive starting date and the annuity
52 starting date shall not be considered credited service except for purposes of calculating the
53 division of benefit; and

54 (b) The lump sum payment described in subdivision (3) of this section shall not be
55 subject to any division of benefit order.